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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,148	04/09/2007	Tsuneo Imatani	062410	5638

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EXAMINER
HUSON, MONICA ANNE

ART UNIT	PAPER NUMBER
1742	

NOTIFICATION DATE	DELIVERY MODE
03/11/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary	Application No.	Applicant(s)	
	10/576,148	IMATANI ET AL.	
	Examiner	Art Unit	
	MONICA A. HUSON	1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 January 2011*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 April 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to the RCE filed 13 January 2011.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the heat conferred during compression molding" in line 6. There is insufficient antecedent basis for this limitation in the claim: there is no mention of heating during compression molding.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-4, 6-8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Valyi (U.S. Patent 5,762,854), in view of Saito et al. (U.S. Patent Application Publication 2002/0088767). Regarding Claims 1, 3-4, 7, and 11, Valyi shows that it is known to carry out a method of manufacturing a synthetic resin container (Column 1, lines 10-12) comprising forming a preform by compression molding (Column 5, lines 62-67; Column 6, lines 1-10); performing an even-heating treatment of the preform discharged from the compression molding machine while the preform maintains the heat conferred during compression molding, thereby obtaining a homogenized temperature heated preform (Column 5, lines 53-67; Column 6, lines 13-

18); and performing stretch blow molding on the evenly-heated preform with a stretch blow molding machine (Column 6, lines 16-18), wherein the compression molding, the even-heating treatment, and the stretch blow molding are continuously performed without cooling the preform (Column 6, lines 13-20: specifically, when there is a stretch blow molding process to be performed on the preform, the mold/preform is maintained in a heated state at the temperature at which stretch blow molding occurs). Valyi does not specifically show forming a preform by compression molding on a drop which is an extruded molten lump. Saito et al., hereafter "Saito," show that it is known to carry out a compression molding process including forming a preform by compression molding on a cut and supplied drop which is an extruded molten lump ([0078, 0087-0088]), including the apparatus and method features necessary for supplying the drop/preform formation/heating/blow molding features ([0101-0118], [0161-0162]). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Saito's drop method in place of Valyi's precursor compression because substitution of equivalents for the same purpose, i.e. providing a material to a compression mold, is known to be obvious (MPEP 2144.06 (II)).

Regarding Claims 6 and 10, Valyi shows the process as claimed as discussed in the rejection of Claims 4 and 1, respectively, above, but he does not show crystallizing a neck part of the container. Saito shows a method and device for heating and crystallizing a neck part of the container ([0156, 0163]). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to include Saito's crystallization step during Valyi's molding process in order to impart the desired rigidity to the neck (see Saito, [0156]).

Regarding Claims 8 and 12, Valyi shows the process as claimed as discussed in the rejection of Claims 4 and 1, respectively, but he does not show a two-step blow. Saito shows the apparatus and method features necessary for a blow molding step to be a two-step blow that forms a bottle ([0159], [0161], [0163]). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Saito's two-step blow molding during Valyi's molding process in order to achieve the desired biaxial orientation.

Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Valyi and Saito, further in view of Beck et al. (U.S. Patent 4,407,651). Valyi shows the process as claimed as discussed in the rejection of Claims 4 and 1, respectively, but he does not show partial heating in order to accomplish even heating of the preform. Beck et al., hereafter "Beck," show that it is known to carry out a method of even-heating which comprises partial heating of the preform (Column 1, lines 54-63; Column 3, lines 65-68; Column 4, lines 1-15). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Beck's partial heating concept during Valyi's molding method in order to effectively prepare the preforms for entry into the blow molder.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 4, 7, and 11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 5-7 of U.S. Patent No. 6,716,386. Although the conflicting claims are not identical, they are not patentably

distinct from each other because the instant claims are merely broader versions of the patented claims, and therefore not patentably distinct therefrom, as they are effectively "anticipated" by the patented claims.

Claims 4, 7, and 11 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 and 9-11 of copending Application No. 10/564445. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are merely broader versions of the patented claims, and therefore not patentably distinct therefrom, as they are effectively "anticipated" by the 10/564445 claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONICA A. HUSON whose telephone number is (571)272-1198. The examiner can normally be reached on Monday-Friday 7:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Monica A Huson
Primary Examiner
Art Unit 1742

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